

reasonably suggested to one having ordinary skill (in) the art, including nonpreferred embodiments.

The applicant would like to respectfully point out to the examiner that the mere mention of the word hydrogen in a sentence does not teach or reasonably suggest the use of hydrogen as an embodiment preferred or not. The Irving et al. patent is enabling with regard to the use of oxygen and nothing else. It is a basic tenet of patent law that , "[I]n order to render a claimed apparatus or method obvious, the prior art must enable one skilled in the art to make and use the apparatus or method. Beckman Instruments, Inc. V. LKB Produkter, 892 F.2D 1547, 13 U.S.P.Q.2D (BNA) 1301 citing In re Payne, 606 F.2d 303, 314, 203 U.S.P.Q. (BNA) 245, 255 (CCPA 1979). The Irving et al patent teaches the use of oxygen. It provides a description of the apparatus, method, and conditions for the use of oxygen. Beyond providing a wish list of addition gases the Irving et al patent does not mention how any of these gases can be used. It is obvious that hydrogen or any of the gases mention cannot merely be substituted for oxygen using the same apparatus and conditions outlined in the patent. Therefore the use of hydrogen without oxygen is clearly not taught or enabled or reasonably suggested by the Irving et al patent. As such, while the Irving et al. patent is a valid reference for oxygen it is not a valid reference for the use of hydrogen under existing patent law.

In light of the above, it is respectfully submitted that the present application is in condition for allowance, and notice to that effect is respectfully requested.

While it is believed that the instant amendment places the application in condition for allowance, should the Examiner have any further comments or suggestions, it is respectfully requested that the Examiner contact the undersigned in order to expeditiously resolve any outstanding issues.

To the extent necessary, Applicants petition for an Extension of Time under 37 CFR 1.136. Please charge any fees in connection with the filing of this paper, including extension of time fees, to the deposit account of Texas Instruments Incorporated, Account No. 20-0668.

Respectfully submitted,



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